

## 21 C.J.S. Courts § 174

Corpus Juris Secundum | May 2023 Update

### Courts

M. Elaine Buccieri, J.D.; James Buchwalter, J.D.; Amy G. Gore, J.D., of the staff of the National Legal Research Group, Inc; and Lonnie E. Griffith, Jr., J.D.

### V. Rules of Practice and Procedure

#### B. Operation and Effect of Court Rules

# § 174. Construction of court rules—With reference to statutes

[Topic Summary](#) | [References](#) | [Correlation Table](#)

#### West's Key Number Digest

- West's Key Number Digest, [Courts](#)  85(2), 85(3)




**Court rules should, when possible, be construed in the light of and in harmony with statutes relating to the same matter and should not be construed in a manner that will subordinate the statute to the rule.**

Court rules should, if possible, be construed in the light of and in harmony with statutes relating to the same matter,<sup>1</sup> and in view of constitutional statutory limitations on the power of the court,<sup>2</sup> and should not be construed in a manner that will subordinate the statute to the rule.<sup>3</sup> When a statute is silent on a particular issue, the civil rules govern the procedure.<sup>4</sup> A judicial council's interpretation of a statute, as reflected in the rules of court, is not binding on the courts, and the supreme court will invalidate a rule if it is contrary to statute.<sup>5</sup>

A state appellate rule is not preempted by the federal civil rights statute<sup>6</sup> to the extent the rule does not allow state officials to take an interlocutory appeal from a denial of qualified immunity where the challenged rule is a neutral state rule for administering state courts; application of the rule primarily involves the balancing of state interests; delaying the appeal would not affect the ultimate outcome of the case; and the right to an immediate appeal in federal court is a procedural right that does not apply in a nonfederal forum.<sup>7</sup>

Westlaw. © 2023 Thomson Reuters. No Claim to Orig. U.S. Govt. Works.

### Footnotes

- 1 Ariz.—*Bobrow v. Herrod*, 239 Ariz. 180, 367 P.3d 84 (Ct. App. Div. 1 2016).
- Md.—*Cooper v. Sacco*, 357 Md. 622, 745 A.2d 1074 (2000).
- 2 Tex.—*Golden v. Odiorne*, 112 Tex. 544, 249 S.W. 822 (Comm'n App. 1923).
- 3 Fla.—*Seaboard Air Line Ry. Co. v. Hess*, 73 Fla. 494, 74 So. 500 (1917).
- 4 Wash.—*Spokane Research & Defense Fund v. City of Spokane*, 155 Wash. 2d 89, 117 P.3d 1117 (2005).
- 5 Cal.— *Sara M. v. Superior Court*, 36 Cal. 4th 998, 32 Cal. Rptr. 3d 89, 116 P.3d 550 (2005).
- 6  42 U.S.C.A. § 1983.
- 7 U.S.— *Johnson v. Fankell*, 520 U.S. 911, 117 S. Ct. 1800, 138 L. Ed. 2d 108 (1997).

---

End of Document

© 2023 Thomson Reuters. No claim to original U.S. Government Works.